

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

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| IN RE: | July 19, 2005 |) | |
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| PETITION OF BELL SOUTH FOR EXPEDITED REVIEW | |) | DOCKET NO. |
| OF GROWTH CODE DENIAL BY THE NUMBER | |) | 05-00126 |
| POOLING ADMINISTRATOR RELATING TO AIM | |) | |
| HEALTHCARE, INC | |) | |

ORDER APPROVING PETITION FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on June 27, 2005 for consideration of the *Petition for Expedited Review of Central Office Code Denial* ("Petition") relating to AIM Healthcare, Inc. ("AIM") filed by BellSouth Telecommunications, Inc. ("BellSouth") on May 2, 2005.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers"¹ Among other things, the FCC adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization and a utilization threshold framework

¹ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Report and Order and Further Notice of Proposed Rule Making*) 15 F.C.R. 7574, 2000 WL 339808, ¶¶ 2, 183, 191 (March 31, 2000) (hereinafter "*First Report and Order*"), see also 47 U.S.C. § 251(e)(1) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis")

to increase carrier accountability and provide incentives to use numbers efficiently² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission” for a decision as to whether to allocate the numbers.³

On June 18, 2001, the FCC designated NeuStar, Inc (“NeuStar”) as the national thousand-block number Pooling Administrator (“PA”).⁴ NeuStar, which also serves as the NANPA, currently administers thousand-block number pools by assigning, managing, forecasting, reporting and processing data that will allow service providers in areas designated for thousand-block number pooling to receive telephone numbers in blocks of one-thousand. On August 21, 2002, thousand-block number pooling was implemented in the Nashville Metropolitan Statistical Area, which is in the 615 Numbering Plan Area (“NPA”) Since then, telecommunications service providers participating in number pooling in that area are required to submit their requests for additional numbering resources to the Pooling Administrator. The life expectancy of the 615 NPA is projected to be the fourth quarter of 2012

On April 7, 2005, BellSouth submitted a Central Office Code (NXX) Assignment Request the PA to be assigned a one thousand-block of numbers in the Franklin Rate Center necessary to meet the demands of its customer, AIM. AIM requested one-thousand consecutive DID telephone numbers to meet demands created by construction of an additional building and increased staffing.

The PA, citing BellSouth’s failure to meet its NXX Assignment Guidelines, denied BellSouth’s request on April 12, 2005 The guidelines require that a rate center must have a 75% utilization rate and that its estimated exhaust date not exceed six months. BellSouth

² See *First Report and Order*, ¶¶ 40-41, 84, 97-98

³ See 47 C F R § 52.15(a), see also *First Report and Order*, ¶¶ 143-48 (providing background on the development of the pooling administrator)

⁴ *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Third Report and Order and Second Order on Reconsideration*) 17 F C C R 252, 2001 WL 1658101, ¶ 11 (Dec. 28, 2001) (hereinafter “*Third Report and Order*”), see also 47 C F R § 52.15(a)

could not meet these guidelines. While the Franklin Rate Center has an 84.10% utilization rate, the projected exhaust date is eight months. BellSouth has not been able to fulfill AIM's request because it lacks NXXs with a satisfactory thousand-block that it can assign to AIM

On May 2, 2005, BellSouth filed with the Authority its *Petition* requesting that the Authority direct NeuStar to provide BellSouth numbers to meet the specific requirements of AIM in the Franklin rate center. BellSouth asserts that its inability to supply AIM with the requested numbers prevents BellSouth from providing the quality of service its customers expect.⁵ BellSouth requests that the Authority reverse the Pooling Administrator's denial of its application and order the release of numbering resources

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the Pooling Administrator's denial of BellSouth's application is authorized by the FCC.⁶ According to the FCC:

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.⁷

State commissions conducting this review must act consistently with the FCC's policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers

⁵ *Petition for Expedited Review of Central Office Code Denial*, p. 4 (May 2, 2005)

⁶ *Third Report and Order*, ¶ 61, see also 47 C.F.R. § 54.15(g)(3)(iv)

⁷ *Third Report and Order*, ¶ 61

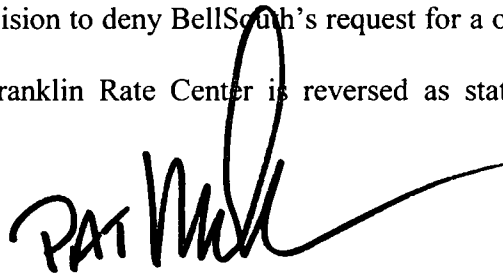
on a fair and equitable basis⁸

At a regularly scheduled Authority Conference held on June 27, 2005, the voting panel assigned to this Docket considered BellSouth's *Petition*. After consideration of the record, the public interest⁹ and the Authority's responsibility to foster competition in the telecommunications industry, the Panel voted unanimously to approve BellSouth's request and reverse the Pooling Administrator's denial of BellSouth's request for the assignment of one thousand-block to BellSouth for the Franklin Rate Center, Switch/POI designation FKLNTNCCRS5

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Expedited Review of Central Office Code Denial* filed by BellSouth Telecommunications, Inc is granted

2 The Pooling Administrator's decision to deny BellSouth's request for a one thousand-block of telephone numbers for the Franklin Rate Center is reversed as stated herein.



Pat Miller, Chairman



Deborah Taylor Tate, Director



Sara Kyle, Director

⁸ See, e.g., *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200 (*Order*) 16 F C C R 15, 842, 2001 WL 964979, ¶ 8 (Aug 24, 2001) (“[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis, that numbering resources are made available on an efficient and timely basis, that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers, and that the state commissions not unduly favor one telecommunications technology over another”), see *FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No 92-237 (*Public Notice*) 16 F C C R 18,502, 2001 WL 1222428 (Oct 15, 2001)

⁹ See Tenn Code Ann § 65-4-123 (2004)